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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/508,892	03/17/2000	HIEP HUATAN	PC9455A	3495

7590 02/19/2003  
PAUL H GINSBURG  
PFIZER INC  
235 EAST 42ND STREET  
20TH FLOOR  
NEW YORK, NY 10017-5755

EXAMINER

LEVY, NEIL S

ART UNIT PAPER NUMBER

1616

DATE MAILED: 02/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

508892

Applicant(s)

HYATAN

Examiner

M. C. Lewis

Group Art. Unit

1676

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 11/18/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 6, 7 & 9 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 6, 7, 9 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Receipt is acknowledged of amendment of 11/18/02.

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Please submit abstract on a separate page.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller.

The rejection of record is maintained. See col. 9 at lines 35-48,; Lactose, Mg stearate and starch disintegrators are tabletted. The preferred actives are moxidectin – avermectins, The instant low solubility parasiticides (col. 10, line 30-45). That is the instant claims.

Claims 6, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roorda et al 5543156 in view of Miller 5128719.

Roorda shows implants of biocides (unspecified – Col. 6, top) with Mg stearate (col. 5, top) and Lactose (col. 7, line 25-30) are sized, shaped and implanted; as rods (col. 7, lines 31-47). The Miller patent discloses advantageous use of avermectin (col. 5, lines 48-60) parasiticide implant, shaped as desired, with Lactose mg stearate and disintegrators (col. 9, line 36-48) starches.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize biocidal delivery to an animal with endo or ecto parasites, to use Roorda's delivery form with a suitable drug. Miller provides the motivation to use an endo parasiticide drug, the instant avermectins, in order to deliver

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one dose to control parasites for a period of time. Roorda shows biodegradation, thus, the Roorda invention with biocides shown by Miller would be an obvious format to use, in order to provide controlled, delivery with eventual bio-metabolic elimination of the carrier vehicle. Note that although Roorda neither specifies solubility of active agents, any may be used. Steroids are shown, for example, along with water solubles. Also, although the phrase "tableting excipients" is absent Lactose, at 35% is present and would serve as a bulking agent of the instant invention, regardless of whatever, else it does. Miller shows the ingredients as fillers, the usual use of mg stearate as flow regulating/ lubricant excipients, and the presence of starch disintegrators. Miller didn't specify use of the tablet form as implant, and instead used a wax. However, the advantageous<sup>use</sup> of a metabolizable implant of miller's Lactose form would have been obvious and within the skill of <sup>of</sup> one in the art to provide. The glycolate starch of applicant's claim 9 has not been shown critical and the use<sup>of</sup> ingredients for the functionality for which they are known to be used is not a basis for patentability.

Applicant's arguments filed on 1/18/02 have been fully considered but they are not persuasive. Applicants arguments are persuasive, as indicated by those rejections not maintained, but see new rejection. The art is old, the ingredients known; no surprises evident.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703)308-2412. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy/LR  
January 30, 2003



NEIL S. LEVY  
PRIMARY EXAMINER